
(2015) 03 JH CK 0126

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1125 of 2015

Prerna Jagriti Vikash Manch

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 27-03-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2015 Jhar 101 : (2015) 3 AJR 636 : (2016) 2 BC 98

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Ananda Sen and Amit Kumar Verma, for the Appellant; L.C.N. Shahdeo and Suraj Singh, J.C. to AAG, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

S. Chandrashekhar, J—Aggrieved by order contained in letter 03.03.2015 and seeking quashing of advertisement issued on 09.03.2015, the present writ petition has been filed. Briefly stated, the facts of the case are that, the petitioner-Prerna Jagriti Vikash Manch is registered under the Societies Registration Act. Pursuant to a tender notice floated by Ranchi Municipal Corporation for collection of fee from Madhukam Khadgarha Vegetable Market, the petitioner was awarded the work in question vide order dated 31.05.2014. However, when the petitioner detected discrepancy in the rate chart issued on the same day, immediately it represented to the Chief Executive Officer, Ranchi Municipal Corporation on 02.06.2014 raising its grievance for increase in toll tax from Rs. 5 to Rs. 15. It was contended by the petitioner that there was discrepancy in the rate quoted in the previous year as compared to the rate chart provided on 31.05.2014. However, vide letter dated 03.03.2015, the petitioner has been directed to deposit the balance 50% of the bid amount with service tax, etc. Subsequently, a fresh notice dated 09.03.2015 has been published inviting bids for the subsequent years. Aggrieved, the petitioner has approached this Court.

2. Heard learned counsel for the parties and perused the documents on record.

3. Mr. Ananda Sen, the learned counsel appearing for the petitioner-Prerna Jagriti Vikash Manch submits that immediately after receiving the rate chart on 31.05.2014, the petitioner represented before the Chief Executive Officer, Ranchi Municipal Corporation indicating the discrepancy in the rate chart and its difficulties. Subsequently also, the petitioner submitted representations however, the representations of the petitioner were not considered by the respondent-Ranchi Municipal Corporation and vide order dated 03.03.2015, the petitioner has been directed to deposit the balance amount of Rs. 07,03,886/- with late fine @ Rs. 250/- per day. The learned counsel for the petitioner further submits that since the rates prescribed by the respondent-Ranchi Municipal Corporation were not practical, it became difficult for the petitioner to deposit the balance amount. Raising a grievance to levy of penalty @ 250/- per day, the learned counsel for the petitioner submits that it is penal in nature and therefore, the imposition of penalty @ Rs. 250/- per day is liable to be quashed.

4. The learned counsel for the respondent-Ranchi Municipal Corporation questions the maintainability of the writ petition and submits that in view of the bid submitted by the petitioner, no grievance can be raised by the petitioner with respect to payment of the balance bid amount. Since the petitioner failed to deposit the balance amount, a penalty has been imposed by the respondent-Corporation.

5. The learned counsel appearing for the respondent-State of Jharkhand has also opposed the prayer in the writ petition.

6. Having considered the rival submission of the parties and after perusing the documents on record, I find that the petitioner itself quoted a bid for Rs. 12,31,000/- and the bid of the petitioner was accepted by the Ranchi Municipal Corporation and the work order dated 31.05.2014 was issued. The petitioner therefore, cannot raise a grievance when a demand is made for payment of the balance bid amount. The contention of the learned counsel for the petitioner that the rate chart which was provided on 31.05.2014 prescribed a rate which was lower compared to the rate prescribed for the previous years, cannot be a ground for challenging the demand of the balance bid amount issued to the petitioner vide letter dated 03.03.2015. Insofar as, the grievance for levying late fee of Rs. 250/- per day is concerned, it appears to be unconscionable. It is well settled that even in the matters of tender, the State is under a duty to adhere to Article 14 of the Constitution of India. Imposition of penalty of Rs. 250/- per day is arbitrary and unreasonable and therefore, order contained in letter dated 03.03.2015 imposing penalty @ Rs. 250/- per day is hereby quashed. Insofar as, the grievance raised by the petitioner that its representations have not been considered by the respondent-Ranchi Municipal Corporation, a liberty is reserved with the petitioner to approach the respondent-Corporation once again and if a representation is made by the petitioner within four weeks, the same shall be considered by the respondent-Corporation within next six weeks. Insofar as,

debarring the petitioner from participating in the subsequent tender, on the ground that the petitioner has not paid the balance amount is concerned, I find no infirmity in the decision taken by the respondent-Ranchi Municipal Corporation. In the matters pertaining to tender, the State is at liberty to put reasonable conditions for the tenderers. A condition debarring a tenderer from participating in the tender process on the ground that it has failed to pay previous dues, is not arbitrary or unreasonable. With the aforesaid observation and direction, the present writ petition is partly allowed.